

<b>TO:</b> <b>Mail Stop 8</b> <b>Director of the U.S. Patent and Trademark Office</b> <b>P.O. Box 1450</b> <b>Alexandria, VA 22313-1450</b>	<b>REPORT ON THE</b> <b>FILING OR DETERMINATION OF AN</b> <b>ACTION REGARDING A PATENT OR</b> <b>TRADEMARK</b>
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In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court Western District of Texas, San Antonio Division on the following

☐ Trademarks or ☒ Patents. ( ☐ the patent action involves 35 U.S.C. § 292.);

DOCKET NO. SA11-CV-950-FB	DATE FILED 11/11/2011	U.S. DISTRICT COURT Western District of Texas, San Antonio Division
PLAINTIFF e-WATCH, INC.		DEFENDANT KUSTOM SIGNALS, INC.
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 see attached		
2 7,197, 228		
3		
4		
5		

In the above—entitled case, the following patent(s)/ trademark(s) have been included:

DATE INCLUDED	INCLUDED BY <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading	
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1		
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In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT
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CLERK <b>William G. Putnicki</b>	(BY) DEPUTY CLERK 	DATE 11/15/2011
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Copy 1—Upon initiation of action, mail this copy to Director Copy 3—Upon termination of action, mail this copy to Director  
 Copy 2—Upon filing document adding patent(s), mail this copy to Director Copy 4—Case file copy

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION**

e-WATCH, INC.  
Plaintiff

v.

KUSTOM SIGNALS, INC.  
Defendant

§  
§  
§  
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§

Civil Case No. 5-11-cv-950

Jury demanded

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**COMPLAINT**

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Comes Now **e-WATCH, INC.**, complaining of **KUSTOM SIGNALS, INC.**, and for cause of action respectfully shows as follows:

**PARTIES**

1. Plaintiff **e-WATCH, INC.** is a Nevada Corporation with its principal office in San Antonio, Texas.

2. Defendant **KUSTOM SIGNALS, INC.** is a Kansas corporation with its principal office in Lenexa, Kansas. It may be served with process by serving its registered agent for service of process, The Corporation Company, Inc. at 112 SW 7th St. Suite 3C, Topeka, Kansas 66603.

**JURISDICTION AND VENUE**

3. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a), because Plaintiff's claims arise under federal laws relating to patents and unfair competition.

4. This Court has personal jurisdiction over the Defendant because it transacts

A true copy of the original, I certify.  
Clerk, U. S. District Court

By

Deputy

business within geographic boundaries of the Western District of Texas, and it has committed acts of patent infringement within the geographic boundaries of the Western District of Texas.

5. Venue is proper in the Western District of Texas pursuant to 28 U.S.C. §§ 1391(b), 1391(c) and 1400(b) because the Defendant is subject to personal jurisdiction in this judicial district, the Defendant regularly conducts business in the state of Texas and within this judicial district, and the Defendant has committed acts of infringement within this judicial district.

#### **FACTS**

6. e-Watch develops and markets hardware, software and services that incorporate mobile digital video recording (DVR) capabilities.

7. Mobile DVR devices are commonly installed in law enforcement vehicles, public transit vehicles, buses, surveillance vehicles, airplanes, ambulances and other emergency response vehicles to provide a video and audio record of activities in proximity to the vehicle.

8. e-Watch has developed and marketed a mobile DVR system, which, among other things, has the capability of recording full motion video while simultaneously generating still frames. The multifunction remote controlled video recording, transmission and playback system includes a still frame generator adapted for selecting and generating still frames on the fly while a full motion video signal is being recorded, without interrupting the recording function. Audio and data signals as well as global positioning satellite and telemetry signals may also be incorporated in the recorded full motion video recording on a near real time synchronized basis.

9. e-Watch is the owner of United States Patent No. 7,197,228 filed on August 28, 1998 and issued on March 27, 2007 (the “228 Patent”). The mobile DVR systems marketed by e-Watch incorporate claims included this patent.

10. On information and belief the Defendant, Kustom Signals makes, uses and sells, or attempts to make, use or sell, or otherwise provides throughout the United States and within the geographical area covered by the United States District Court for the Western District of Texas products and services which utilize the systems and methods described by claims in the '228 Patent.

**CLAIM FOR INFRINGEMENT OF THE '228 PATENT**

11. Plaintiff incorporates the foregoing paragraphs by reference as if fully set forth below.

12. The '228 Patent describes technology for a mobile DVR system with the capability of recording and transmitting high resolution still image and video signals.

13. The '228, Patent is valid and enforceable.

14. The Defendant has and continues to infringe, contributorily infringe or actively induce the infringement of the '228 Patent by using, selling and offering for use or sale products and services within this judicial district which incorporate e-Watch's patented technology. The Defendant is offering for sale or use, or selling or using these products without license or authority from e-Watch. The claims of the patent are either literally infringed or infringed under the doctrine of equivalents. These infringing acts of the Defendant are committed in violation of 35 U.S.C. § 271.

15. Upon information and belief, Plaintiff alleges that the acts of infringement by the Defendant are willful, making this an exceptional case under 35 U.S.C. § 285.

16. Upon information and belief, Plaintiff further alleges that the actions of the Defendant have resulted in substantial lost profits to the Plaintiff, and substantial unjust profits and enrichment to the Defendant, all in amounts yet to be determined. Plaintiff at all times has

been and is now willing to grant licenses to qualified parties, including the Defendant, for the use of its patented technology, at a reasonable royalty rate. Defendant's acts of infringement have caused irreparable harm to the Plaintiff and will continue to do so unless enjoined by the Court.

#### **DAMAGES**

17. As a result of Defendant's infringement, Plaintiff has suffered actual and consequential damages, however, Plaintiff does not yet know the full extent of such damages and such extent cannot be ascertained except through discovery and special accounting. To the fullest extent permitted by law, Plaintiff seeks recovery of damages for lost profits, reasonable royalties, unjust enrichment, and benefits received by the Defendant as a result of using the misappropriated technology. Plaintiff seeks any other damages to which it may be entitled in law or in equity.

18. Defendant's infringement was committed intentionally, knowingly, and with callous disregard of Plaintiff's legitimate rights. Plaintiff is therefore entitled to and now seeks to recover exemplary damages in an amount not less than the maximum amount permitted by law.

#### **ATTORNEYS FEES**

19. Plaintiff is entitled to recover reasonable and necessary attorneys fees under applicable law.

#### **CONDITIONS PRECEDENT**

20. All conditions precedent to Plaintiff's right to recover as requested herein have occurred or been satisfied.

**JURY DEMAND**

21. Plaintiff demands a trial by jury pursuant to Fed. R. Civ. P. 38.

**PRAYER**

WHEREFORE, PREMISES CONSIDERED, Plaintiff e-Watch, Inc. asks that Defendant Kustom Signals, Inc. be cited to appear and answer and, on final trial, that Plaintiff have judgment against Defendant for the following:

- a. Actual economic damages;
- b. Exemplary treble damages as allowed by law;
- c. Permanent injunction;
- d. Attorney fees;
- e. Pre-judgment and post-judgment interest as allowed by law;
- f. Costs of suit; and
- g. All other relief in law or in equity to which Plaintiff may show itself justly entitled.

Respectfully submitted,

/s/ W. Shawn Staples

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